

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

DOUGLAS COX,)	
)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 17-cv-01337
)	
CENTRAL INTELLIGENCE)	(Chen, J.)
AGENCY, et al.,)	(Gold, M.J.)
)	
)	
)	
Defendants.)	
)	

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

Defendants Central Intelligence Agency (“CIA”) and the National Archives and Records Administration (“NARA”) (collectively, “Defendants”) hereby answer the Complaint filed by Plaintiff Douglas Cox (“the Complaint”) (Dkt. No. 1) in the following numbered paragraphs, which correspond to the Complaint’s numbered paragraphs:

1. Defendants admit that Plaintiff seeks records from the CIA and NARA pursuant to the Freedom of Information Act (“FOIA”). The remaining allegations in the first sentence contain legal conclusions, to which no response is required. The second sentence includes Plaintiff’s characterization of the FOIA request, to which no response is required, and many of the terms used in the sentence are vague, ambiguous, or argumentative. To the extent a response is deemed required, Defendants respectfully refer the Court to the requests for a full and accurate statement of their contents.

2. This paragraph contains legal conclusions, to which no response is required.

3. Defendants lack knowledge or sufficient information to form a belief as to the truth of the allegations of this paragraph.

4. Defendants admit that the CIA is an agency of the United States within the meaning of 5 U.S.C. § 552(f)(1).

5. Defendants admit that NARA is an agency of the United States within the meaning of 5 U.S.C. § 552(f)(1).

6. Defendants admit that Plaintiff submitted a FOIA request to NARA dated February 19, 2010. The remainder of the paragraph includes Plaintiff's characterization of the FOIA request, to which no response is required. To the extent a response is deemed required, Defendants respectfully refer the Court to the request for a full and accurate statement of its contents.

7. Defendants admit that NARA assigned tracking number NGC 10-088 to Plaintiff's FOIA request. With regard to the second sentence in the paragraph, Defendants admit that NARA referred certain responsive materials to the CIA for consultation. Defendants deny the remaining allegations in this paragraph, which include terms that are vague, ambiguous, or argumentative.

8. Defendants admit that NARA produced a CD containing responsive records on February 24, 2014. Defendants deny the remaining allegations in the first sentence, which include terms that are vague, ambiguous, or argumentative. Defendants also deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second and third sentences because they contain Plaintiff's characterization of the released documents, to which no response is required, and many of the terms used in the sentences are vague, ambiguous, or argumentative.

9. Admit.

10. Admit.

11. Defendants admit that it has been more than 20 days since Plaintiff submitted his appeal. The remaining parts of the paragraph contain legal conclusions, to which no response is required.

12. Defendants admit that Plaintiff submitted a FOIA request to NARA dated May 19, 2016. The remainder of the paragraph includes Plaintiff's characterization of the FOIA request, to which no response is required. To the extent a response is deemed required, Defendants respectfully refer the Court to the request for a full and accurate statement of its contents.

13. Admit.

14. Defendants admit that it has been more than 20 days since Plaintiff submitted his FOIA request. The remaining allegations in this paragraph contain legal conclusions, to which no response is required.

15. Defendants admit that Plaintiff submitted a FOIA request to NARA dated November 22, 2016. The remainder of the paragraph includes Plaintiff's characterization of the FOIA request, to which no response is required. To the extent a response is deemed required, Defendants respectfully refer the Court to the request for a full and accurate statement of its contents.

16. Defendants admit that it has been more than 20 days since Plaintiff submitted his FOIA request. The remaining allegations in this paragraph contain legal conclusions, to which no response is required.

17. Defendants admit that Plaintiff submitted a FOIA request to the CIA dated May 19, 2016. The remainder of the paragraph includes Plaintiff's characterization of the FOIA request, to which no response is required. To the extent a response is deemed required, Defendants respectfully refer the Court to the request for a full and accurate statement of its contents.

18. Defendants admit that the CIA sent a letter to Plaintiff dated June 1, 2016, indicating that his request was assigned the reference number F-2016-01803. The remainder of the paragraph includes Plaintiff's characterization of the letter, to which no response is required. To the extent a response is deemed required, Defendants respectfully refer the Court to the letter for a full and accurate statement of its contents.

19. Defendants admit that Plaintiff sent a letter to the CIA dated June 6, 2016. The remainder of the paragraph includes Plaintiff's characterization of the letter, to which no response is required. To the extent a response is deemed required, Defendants respectfully refer the Court to the letter for a full and accurate statement of its contents.

20. Defendants admit that the CIA sent a letter to Plaintiff dated June 13, 2016. The remainder of the paragraph includes Plaintiff's characterization of the letter, to which no response is required. To the extent a response is deemed required, Defendants respectfully refer the Court to the letter for a full and accurate statement of its contents.

21. Defendants admit that it has been more than 20 days since Plaintiff submitted his FOIA request. The remaining parts of the paragraph contain legal conclusions, to which no response is required.

22. Defendants admit that Plaintiff submitted a FOIA request to the CIA dated November 22, 2016. The remainder of the paragraph includes Plaintiff's characterization of the

FOIA request, to which no response is required. To the extent a response is deemed required, Defendants respectfully refer the Court to the request for a full and accurate statement of its contents.

23. Defendants admit that the CIA sent a letter to Plaintiff dated November 30, 2016, indicating that his request was assigned the reference number F-2017-00336.

24. Defendants admit that it has been more than 20 days since Plaintiff submitted his FOIA request. The remaining parts of the paragraph contain legal conclusions, to which no response is required.

The remaining paragraphs of the Complaint contain Plaintiff's requested relief, to which no response is required. To the extent a response is deemed necessary, Defendants deny the allegations contained in the remaining paragraphs of the Complaint and aver that Plaintiff is not entitled to any relief. Defendants also deny all allegations in the Complaint not expressly admitted or denied.

DEFENSES

FIRST DEFENSE

All or part of the Complaint fails to state a claim upon which relief can be granted because it does not present a valid FOIA request by failing to reasonably describe the records sought. *See* 5 U.S.C. § 552(a)(3)(A)(i).

SECOND DEFENSE

Some or all of the requested documents and information are exempt from disclosure. *See* 5 U.S.C. § 552(b).

THIRD DEFENSE

Defendants have exercised due diligence in processing Plaintiff's FOIA requests and exceptional circumstances exist that necessitate additional time for Defendants to complete the processing of the FOIA request. *See* 5 U.S.C. § 552(a)(6)(C).

WHEREFORE, having fully answered the claims in Plaintiff's Complaint, Defendants assert that Plaintiff is not entitled to the relief requested, or to any relief whatsoever. Accordingly, Defendants request that they be given such other relief as the Court deems just and proper.

Dated: April 20, 2017

Respectfully submitted,

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Acting United States Attorney

ELIZABETH J. SHAPIRO
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/s/ Stephen M. Elliott
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2017, I electronically transmitted the foregoing to the clerk of court for the United States District Court for the Eastern District of New York using the CM/ECF filing system.

/s/ Stephen M. Elliott

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